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Human rights situations that require the Council's attention

Written statement* submitted by the Human Rights Now, a non-governmental organization in special consultative status

The Secretary-General has received the following written statement which is circulated in accordance with Economic and Social Council resolution 1996/31.

[16 February 2015]

* This written statement is issued, unedited, in the language(s) received from the submitting non-governmental organization(s).

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The Human Rights Situation in Myanmar

1. Human Rights Now (HRN), a Tokyo-based international human rights organization, welcomes positive human rights developments in Myanmar in 2014, such as the recent attempts by the Myanmar government to increase its cooperation with the international community. It is particularly commendable that the government intensified its cooperation with the International Labour Organization (ILO) to end forced and child labour, and that the government ratified ILO Convention 182 and signed the *Declaration of Commitment to End Sexual Violence in Conflict*. However, several human rights violations continued to be reported throughout 2014.

2. HRN notes with disappointment that Myanmar's government failed to amend the Constitution in 2014 to meet international human rights standards and ensure democracy.
Myanmar's government has also neglected repeated calls for ratification and implementation of a number of human rights treaties and extensive legal reforms to meet international human rights standards. HRN stresses that ensuring human rights and fundamental freedoms for all, without discrimination, is a core responsibility of States and a crucial step for Myanmar's government to take in order to transition towards a true democracy.

3. HRN regrets that several outdated draconian laws are used to silence critical voices in Myanmar. Despite promises to release all political prisoners before January 1, 2013, 81 political prisoners remained jailed in December 2014, while 78 farmers were imprisoned and another 203 political and human rights activists awaited trial, according to the Assistance Association for Political Prisoners-Burma.[1]

The *Unity* journal case constituted one of the severest attacks on free media in Myanmar during the year: four journalists and the CEO of *Unity* were sentenced to ten years imprisonment with hard labour after they published coverage of an alleged chemical weapons factory.[2] Another serious attack on independent media was the fatal shooting of freelance journalist Aung Kyaw Naing (also known as Par Gyi) by the State army in September. His exhumed body showed signs of torture, which he presumably endured while in military custody.[3] Legal action, violence and threats were also widely used against political and human rights defenders, including organizers of protests and demonstrations. For example, Movement for Democracy Current Force member Htin Kyaw was arrested in May 2014 and later received prison sentences totalling more than 13 years for his involvement in land rights protests and publishing a statement about Aung San Suu Kyi.[4]

4. HRN condemns the continued use of rape as a weapon in war by the State army. The Women's League of Burma (WLB) in January 2014 documented over 100 cases of rape against women and girls by the State army under President Thein Sein's government. 47 of these cases involved gang rapes, and 28 of the victims were killed or died as a result of injuries sustained during the rape. Most rapes occurred in resource-rich Kachin and Shan States.[5] WLB followed up this

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[1] Assistance Association of Political Prisoners -Burma, *December 2014 Chronology*, January 13, 2015, page 1, http://aappb.org/wp-content/uploads/2015/01/AAPP-December-2014-Chronology-final-style.pdf, retrieved on January 19, 2015.

[2] CPJ, "2014 prison census: 221 journalists jailed worldwide", December 1, 2014; updated December 9, 2014, http://www.cpj.org/imprisoned/2014.php, retrieved on January 19, 2015.

[3] SCPJ, "Journalists killed" > "2014" > "Aung Kyaw Naing 'Par Gyi'", undated, https://cpj.org/killed/2014/aung-kyaw-naing-par-gyi.php, retrieved on January 19, 2015.

[4] Nobel Zaw, "Activist Hit With Additional Sentence, Totaling Over 13 Years", *The Irrawaddy*, October 31, 2014, http://www.irrawaddy.org/burma/activist-hit-additional-sentence-totaling-13-years.html, retrieved on January 19, 2015.

[5] Women's League of Burma (WLB), *Same Impunity, Same Patterns: Sexual abuses by the Burma Army will not stop until there is a genuine civilian government*, January 2014, page 1, http://womenofburma.org/wp-content/uploads/2014/01/SameImpunitySamePattern_English-final.pdf, retrieved on January 19, 2015.

report with another report in November providing evidence of an additional 14 cases of sexual violence by the State army since the January report.[6]

5. HRN reiterates its concern that foreign investment projects accelerate human rights violations under the name of "development." HRN notes with concern how the continuation and expansion of natural resource-based projects has resulted in forced mass-relocations of local communities and large-scale land confiscations. The Myanmar National Human Rights Commission (MNHRC) disclosed that nearly half of the complaints reported in 2014 – 547 out of a total of 1,220 from January to August – concerned land rights issues.[7] However, people from affected communities who questioned ongoing land confiscations risked arrest and prosecution, such as when190 farmers in Pharuso township, Kayah State, were prosecuted in May for "trespassing" after staging a plough protest; ten were subsequently sentenced to jail while another ten were fined. In July and August, 450 farmers from Kanbalutownship, Sagaing Region, were threatened with prosecution under various laws; more than 50 received prison sentences ranging up to three years.[8] In December, 56-year old villager Khin Win was killed by police when she protested against land confiscations by Chinese company Wanbao, which is currently exploring a copper mine near Monywa in Sagaing Region as part of a joint venture with state-owned Union of Myanmar Economic Holdings Ltd.[9]

HRN is further concerned about several armed conflicts that have erupted or escalated in areas where development projects are being carried out. For example, militarization increased at the Tasang dam site in Shan State to the point that there were some 9,000 government troops surrounding the dam in October.[10] Additionally, in November, 23 cadets from various non-State armed groups, who attended a military training in Laiza in Kachin State, were killed by the State army. Shells were fired near an IDP camp only days later, putting some 10,000 people in danger.[11] These breaches of the ceasefire between the Kachin Independence Army and the State army are examples of how the military's interests in natural resources are prioritized over human security and long-lasting peace.

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[6] WLB, *"If they had hope, they would speak": The ongoing use of state-sponsored sexual violence in Burma's ethnic communities*, November 2014, page 1, http://womenofburma.org/wpcontent/uploads/2014/11/VAW_IftheyhadhopeTheywouldSpeak_English.pdf, retrieved on January 19, 2015.

[7] Of all land disputes reported to the MNHRC since its inception approximately one-third were reported in the first eight months of 2014 alone. See Nobel Zaw, "Land Disputes Leading Cause of Human Rights Complaints", *The Irrawaddy*, November 12, 2014, http://www.irrawaddy.org/burma/land-disputes-leading-cause-human-rights-complaints.html, retrieved on January 16, 2015.

[8] Asian Human Rights Commission, "BURMA/MYANMAR: Farmers face prison sentences for trespassing and move to remote prisons", July 24, 2014, http://www.humanrights.asia/news/ahrc-news/AHRC-STM-143-2014, retreived on January 16, 2015; *Al Jazeera America*, "Plow protesters lose land and liberty in Myanmar", November 12, 2014, http://america.aljazeera.com/articles/2014/11/12/myanmar-arrests-pointtodangerousfuture.html, retreived on January 16, 2015.

[9] Yen Snaing, "Police Asked to Probe Letpadaung Death", *The Irrawaddy*, January 5, 2015, http://www.irrawaddy.org/burma/police-asked-probe-letpadaung-death.html, retrieved on January 19, 2015.

[10] Denis D. Gray, "Dam Projects Risk Re-Igniting Myanmar's Civil War", *Associated Press*, December 11, 2014, http://burmariversnetwork.org/index.php/news/1003-dam-projects-risk-re-igniting-myanmar-s-civil-war, retrieved on January 19, 2015.

[11] Burma Partnership, "How Many More Lives? Burma Army Must Immediately Halt Its Offensives in Kachin State", December 2, 2014, http://www.burmapartnership.org/2014/12/how-many-more-lives-burma-army-must-immediately-halt-its-offensives-in-kachin-state/, retrieved on January 19, 2015.

6. Due to domestic laws granting ownership of natural resources to the central government, the government has the right to confiscate land that is perceived to be "vacant," or if there is a perceived State interest in doing so. This has enabled authorities to seize land left behind by stateless Rohingya minorities being relocated to segregated townships or detention camps in northern Rakhine State. Following the 2014 census, in which they were denied the right to self-identify as Rohingya, 850,000 persons are estimated to hold temporary identity documents – so-called "white cards" – that only grant them partial rights and freedoms.[12] Stripped of their land, homes, and recognition as legitimate citizens of Myanmar, Rohingya communities faced several human rights violations in 2014, including limitations on their freedom of movement and to choose their marital partner. They further faced birth restrictions; scarcity in food, clean water and medicines; restricted access to education and health services; physical and sexual violence; and killings.

7. In response to these challenges, HRN calls upon Myanmar's government and related State bodies to:
- Amend the Constitution in conformity with international human rights standards before the general elections;
- Amend draconian laws that restrict people's human rights and fundamental freedoms, including the Peaceful Assembly and Peaceful Procession Law and the State Secrets Act, to meet international human rights standards;
- Ensure that elections are free and fair, including by allowing international observers and not interfering with their role as observers;
- Review the effectiveness of current land dispute mechanisms, including scrutinizing the work and results of the MNHRC;
- Ensure that offenders among State officials, including from the army and the police, are prosecuted and punished according to law and that victims of human rights violations committed by State officials have access to redress and reparation;
- Lift all arbitrary restrictions against the Rohingya and abolish all discriminatory policies targeting the Rohingya community;
- Take action against hate speech, racial discrimination and extremist propaganda;
- Ratify and implement all major international human rights treaties, including the International Covenant on Civil and Political Rights (ICCPR), the Convention against Torture (CAT) and the Convention on the Elimination of All Forms of Racial Discrimination (ICERD)

[12]Nyein Nyein, "Thein Sein Pushes Referendum Suffrage for White Card Holders", *The Irrawaddy*, December 22, 2014, http://www.irrawaddy.org/burma/thein-sein-pushes-referendum-suffrage-white-card-holders.html, retrieved on January 19, 2014.